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SIPDIS

STATE FOR WHA/CAR
DRL/IL FOR LAUREN HOLT
STATE PASS AID FOR LAC/CAR
DOL/ILAB FOR TINA McCARTER

E.O. 12958: N/A

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SUBJECT: Haiti: Response to Request for Update of Worst Forms of Child Labor Information for Mandatory Reporting Requirement

Ref: Secstate 143552

1. Summary. Child labor practices in Haiti mainly involve the use of children in domestic servitude, or restaveks (derived from the French words "rester avec" meaning to stay with). The centuries-old practice is also considered internal trafficking of children and involves placing poorer children from the provinces with wealthy urban families to serve as domestic labor in return for shelter, food, and education. In some instances, however, children are placed in abusive and exploitative situations. Due to the political crisis and change of government in 2004, the Interim Government of Haiti (IGOH) has not focused much attention on the issue of child labor. However, the IGOH is continuing to pursue its anti-trafficking in persons strategy, which targets child labor as an aspect of the internal trafficking phenomenon in Haiti. End Summary.

2. The following responses are keyed to reftel and serve as an update on Haiti's efforts to target child labor.

Laws and Regulations --

A) The Labor Code of 1984 prohibits forced or compulsory labor for adults and minors; however, the Government failed to enforce this law for children, who continued to be subjected to forced domestic labor as restaveks in urban households, sometimes under harsh conditions. The minimum employment age in all sectors is 15 years, with the exception of domestic service, for which the minimum is 12 years. There is also a legal provision for employment of children between the ages of 12 and 16 as apprentices. The Labor Code prohibits minors from working under dangerous conditions and prohibits night work in industrial enterprises for minors under 18. Fierce adult competition for jobs ensured child labor was not a factor in the industrial sector; however, children under the age of 15 commonly worked at informal sector jobs to supplement family income. Children also commonly worked with parents on small family farms, although the high unemployment rate among adults kept children from employment on commercial farms in significant numbers. Government agencies lacked the resources to enforce relevant laws and regulations effectively.

DUE TO THE POLITICAL CRISIS, HAITI HAS NOT HAD A SITTING PARLIAMENT SINCE JANUARY 2004 AND HAS NOT ENACTED NEW LEGISLATION ON CHILD LABOR LAWS SINCE THAT TIME. IN A SPECIAL SESSION OF PARLIAMENT IN JUNE 2003, HAITI PASSED A LAW THAT EXPRESSLY BANNED THE SELLING OR TRAFFICKING OF CHILDREN INTO DOMESTIC SERVITUDE OR FORCED LABOR SITUATIONS. THE LAW, HOWEVER, ENCOURAGED FAMILIES TO CONTINUE THE PRACTICE OF INFORMAL ADOPTIONS OF DISADVANTAGED CHILDREN IN ORDER TO PROVIDE THEM WITH EDUCATION, HEALTH CARE, AND AN OVERALL HIGHER STANDARD OF LIVING CONDITIONS.

THE GOVERNMENT HAS NOT RATIFIED AND DOES NOT ADHERE TO ILO CONVENTION 182 ON ELIMINATION OF THE WORST FORMS OF CHILD LABOR.

REGULATIONS FOR IMPLEMENTATION AND ENFORCEMENT --

B) The Government designated the Ministry of Labor and Social Affairs' Welfare Research Institute (IBESR) to implement and enforce child labor laws and regulations. Chapter 9, Article 343 of the Labor Code calls for anyone who has a child domestic in their employ to obtain a permit annually from IBESR and to ensure the education and medical welfare of the child until age 15. Although IBESR is supposed to issue these permits, it rarely does so. The budget for the Ministry remained inadequate to fund adequately programs to investigate exploitative child labor cases throughout the country.

Social Programs --

C) Governmental agencies and programs to promote children's rights and welfare existed, but the Government lacked the

capacity to adequately support or enforce existing mechanisms. Malnutrition was a major problem. According to the U.N., approximately 42 percent of all children under 5 were chronically malnourished. In December 2004, UNICEF reported that 60 percent of rural households and 32 percent of urban households suffered from chronic food insecurity. The Government has a school nutrition program, administered through the Office of National Development and supported by foreign donors. Through this program, health clinics and dispensaries distributed donated food to children.

The Constitution and the law provide for free, universal, and compulsory primary education. However, in practice, most rural families did not have access to public schools. The costs of school fees, books, materials, and uniforms, even in public schools, were prohibitive for most families, and an estimated 90 percent of schools were private. Schools were dilapidated and understaffed. According to the Government, 40 percent of children never attend school. Of those who do, less than 15 percent graduate from secondary school. The Ministry of Education estimated primary school enrollment at 65 percent. Poorer families sometimes rationed education money to pay school fees only for male children.

Child abuse was a problem. Government-sponsored radio commercials urged parents not to abuse their children physically or mentally. There was some anecdotal evidence that in very poor families, caretakers deprive the youngest children of food to feed older, income-generating children.

The law prohibits corporal punishment of children, and all schools must post clearly their disciplinary policies. The law also called for the establishment of a commission to determine appropriate school disciplinary measures. In practice, however, corporal punishment was accepted as a form of discipline.

COMPREHENSIVE GOVERNMENTAL POLICY --

D) The IBESR coordinated efforts with the Ministries of Justice, Education, and Foreign Affairs, as well as local and international agencies, to formulate and enforce child labor policies.

Governmental Progress --

E) The child labor situation in Haiti has not improved over the past year. Children continue to be employed in the informal household domestic labor sector and the actual numbers of children involved in the practice are difficult to obtain. Figures range from 90,000-120,000 (governmental figures) to 150,000-300,000 (NGO figures).